IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

RP.No. 514 of 2007(C)

AGAINST THE JUDGEMENT/ORDER IN WPC.16677/2007 Dated 01/06/2007
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REVIEW PETITIONERS/RESPONDENTS:
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1. **STATE OF KERALA, REP.BY**
   THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE PRINCIPAL SECRETARY,**
   HOME AND VIGILANCE DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. **DIRECTOR (VIGILANCE & ANTI CORRUPTION)**
   BUREAU, DIRECTORATE OF VIGILANCE,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER

RESPONDENT: PETITIONER:

TOMIN J.THACHANKARY, S/O.JOSEPH THOMAS,
AGED 43 YEARS, RESIDING AT THAMMANAM, KOCHI-32,
WORKING AS MANAGING DIRECTOR, KERALA BOOKS &
PUBLICATIONS SOCIETY, KAKKANAD P.O., COCHIN.

BY ADV. SRI.K.P.DANDAPANI (SR.)
SRI.SHAJI P.CHALY

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. BALAKRISHNAN NAIR, J.

Review Petition No.514 of 2007 in
W.P.(C) No.16677 of 2007 (I)

Dated this the 25th June, 2007.

O R D E R

The respondents in the writ petition are the review petitioners. This Court disposed of the writ petition, directing the 2nd respondent, the Principal Secretary to Government (Home and Vigilance) Department, to take into consideration Ext.P6, and the materials produced by the petitioner, while taking a decision on the report submitted by the Enquiry Officer. The review petitioners submit that the competent authority to take a decision, at this stage, is the 3rd respondent, the Director of Vigilance and Anti-Corruption Bureau. Only he can, as a Police Officer, direct registration of a crime and investigation of the same. The role of the Government comes only at the next stage, where sanction for prosecution is contemplated. It is also submitted that if departmental enquiry alone is contemplated, even then, further action could be taken on the report of enquiry, only after its examination by the 3rd respondent.

2. The writ petitioner has filed a counter affidavit in the review petition, in which it is submitted that this Court has issued the direction, rightly, to the Government and it is for the Government to take a decision in the matter. The writ petitioner also produced Ext.R1(1) rules and Ext.R1(2), which is the full text of Annexure R3(a).

3. Heard the learned counsel on both sides.

4. The second prayer in the writ petition reads as follows:

> "ii) To direct the 3rd respondent to consider the statements offered by the petitioner and his wife regarding their source of income as requested in Exhibit P6 before taking a decision for the continuation of further proceedings."

5. the petitioner wanted the 3rd respondent to look into Ext.P6 and the materials accompanying the same, when the said respondent is considering the factual report submitted by the Enquiry Officer. So, the direction issued by this Court, contained in paragraph 3 of the judgment, should have been to the 3rd respondent.

Though the writ petitioner now opposes the prayer sought for in the review petition, the relief sought by him, as stated earlier, was for a direction to the 3rd respondent to consider the materials produced by him. So, the direction issued to the 2nd respondent is a mistake, which is apparent on the face of the records. Therefore, it has to be corrected. It is ordered that the direction contained in the 3rd paragraph of the judgment in W.P.(C) No.16677 of 2007, issued to the 2nd respondent, will be treated as a direction to the 3rd respondent in the writ petition, the Director of Vigilance and Anti-Corruption Bureau. The said respondent, if he has not taken any decision as on 1.6.2007, shall also consider Ext.P6 and the materials produced by the petitioner along with it, while taking a decision as to what further action is to be taken on the enquiry report.

This review petition is allowed as above.

K. BALAKRISHNAN NAIR,
JUDGE.

vav.